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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,900	06/27/2003	William R. Kennedy	KDY 9465	7783

321 7590 10/07/2004

SENNIGER POWERS LEAVITT AND ROEDEL  
ONE METROPOLITAN SQUARE  
16TH FLOOR  
ST LOUIS, MO 63102

EXAMINER
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THOMPSON, HUGH B

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 10/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/608,900

Applicant(s)

KENNEDY ET AL.

Examiner

Hugh B. Thompson II

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NW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 30-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☒ Claim(s) 1 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11-13-03
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-29, drawn to a mine door installation, classified in class 49, subclass 138.
- II. Claims 30-35, drawn to a control system for a mine door, classified in class 454, subclass 169.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as door leaf mounted in a passageway have a constant ambient pressure with simple hydraulic door checks, absent of air powered actuators. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. Michael Godar on September 30, 2004 a provisional election was made with out oral traverse to prosecute the invention of group I, claims 1-29. Affirmation of this election must be made by applicant in replying to this Office action.

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Claims 30-35 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claims 1 and 20, line 2, the applicants have positively recited the combination of the installation and the mine passageway. It is suggested the applicants use the phrase "adapted to" when referring to unclaimed elements.

With respect to claim 2, the applicants set forth the checking system, however, there are no structural relationships to the door leaf or the frame. Absent such relationships, the claim is indefinite. Note the recited structure of the housings to the leaf in claim 21, also drawn to the

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checking system. Were the applicants to properly claim these relationships, the claim would be in condition for allowance.

With respect to claim 18, there is no antecedent basis for “the rod” or “the pneumatic housing”.

***Allowable Subject Matter***

Claims 1 and 20 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action. The primary reason for the allowable subject matter is the inclusion of a pneumatic actuator mounted to the leaf, and a hydraulic checking system (means) “for controlling the speed of the door leaf” (function), as recited on page 8 of the specification, specifically, the structure of the housings and hydraulic circuit to actuate movement of the door leaf. The prior art of record fails to teach or suggest the claimed features absent the applicants’ own disclosure.

***Conclusion***

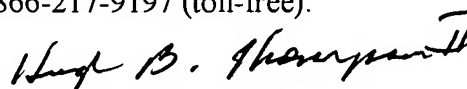
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Armstrong #6,497,004, Gillispie #5,944,399, Rieckmann et al 36,138,412, Tutikawa #5,956,806, and Alonso #6,640,387 are cited to teach hydraulic door assemblies.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hugh B. Thompson II whose telephone number is (703) 305-0102. The examiner can normally be reached on Monday thru Friday 9 am to 5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hugh B. Thompson II  
Primary Examiner  
Art Unit 3634

September 30, 2004

HUGH B. THOMPSON II  
PRIMARY EXAMINER  
TECHNOLOGY CENTER 3600